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HOUSE OF THE PEOPLE

The following report of the Select Committee on the Bill to provide for the establishment of Air Corporations, to facilitate the acquisition by the Air Corporations of undertakings belonging to certain existing air companies and generally to make further and better provisions for the operation of air transport services, was presented to the House of the People on the 30th April, 1953:—

MEMBERS OF THE SELECT COMMITTEE

Pandit Thakur Das Bhargava (*Chairman*).

Shri N. Somana,

Shri N. P. Nathwani.

Pandit Munishwar Dutt Upadhyay.

Shri Venkatesh Narayan Tivary.

Shri C. D. Pande.

Shri Mathura Prasad Mishra.

Shri Banarsi Prasad Jhunjhunwala.

Shri Satis Chandra Samanta.

Shri Rohini Kumar Chaudhuri.

Shri Ghamandi Lal Bansal.

Sardar Amar Singh Saigal.

Shri Yeshwantrao Martandrao Mukne.

Shri M. Muthukrishnan.

Shri T. N. Viswanatha Reddy.

Shri C. P. Matthen.

Shri H. Siddananjappa.

Shri Pannalal R. Kaushik.

Shri Nityanand Kanungo.

Shri Vajjnath Mahodaya.
Shri V. B. Gandhi.
Shri Shivram Rango Rane.
Shri Jaipal Singh.
Shri K. Ananda Nambiar.
Dr. Syama Prasad Mookerjee.
Shri Girraj Saran Singh.
Shri Rayasam Seshagiri Rao.
Shri M. S. Gurupadaswamy.
Shri K. A. Damodara Menon.
Sardar Hukam Singh.
Shri S. V. L. Narasimham.
Shri Radha Raman.
Shrimati Vijaya Lakshmi Pandit.
Shrimati Sushama Sen.
Shrimati Renu Chakravartty.
Shri Sarangadhar Das.
Shri Raj Bahadur.
Shri Jagjivan Ram.

REPORT OF THE SELECT COMMITTEE

The Select Committee to which the Bill* to provide for the establishment of Air Corporations, to facilitate the acquisition by the Air Corporations of undertakings belonging to certain existing air companies and generally to make further and better provisions for the operation of air transport services was referred, have considered the Bill and the Committee now submit this their Report with the Bill as amended by the Committee annexed thereto.

The question whether there should be one Corporation or two Corporations for the purposes of this measure was discussed at great length in connection with clause 2 and the Select Committee, after carefully examining the various views expressed on the subject, is of opinion that in view of the practical difficulties involved, there should be two Corporations for the first few years at least.

Upon the amendments to the Bill which are not formal or consequential, the Select Committee note as follows.—

Clause 4.—The Bill as drafted lays down no disqualifications for membership of the Corporation but leaves the matter to be regulated by the power given to the Central Government under clause 5. The Select Committee feel that it would be desirable to set out certain disqualifications expressly in clause 4 on the lines of similar provisions in certain United Kingdom Nationalisation laws, and this clause has been amended accordingly.

Clause 5.—The second proviso providing that a member on relinquishing his office on the expiry of the term thereof shall be eligible for re-appointment has been omitted as unnecessary.

*The Bill was published in Part II, Section 2 of the *Gazette of India*, dated the 21st March, 1933.

Clause 7.—Apart from a drafting change, sub-clause (2) has been amended so as to add to the many matters specified therein one more category of functions which the Corporations may undertake.

Clause 8.—It is not necessary that sub-clause (3) should apply to all employees irrespective of whether they have any voice in the administration of the affairs of either of the Corporations or not, and this sub-clause has been amended so as to apply only to specified employees.

Clause 20.—In the opinion of the Select Committee a provision should be included in this clause whereby the Central Government would be empowered to direct the Corporation concerned to take into its employment any employee of an existing air company who was in the service of that company before the 1st July, 1952, but who was discharged after that date due to victimisation. Further sub-clause (4) should be amended so that both the existing air company and the Corporation concerned are rendered immune from any liability to pay compensation to managing agents, etc., for the premature termination of any contract of management by reason of anything contained in this Bill. Clause 20 has, therefore, been amended accordingly.

Clause 22.—The amendment is clarificatory in nature.

Clause 23.—No agreement should be cancelled or varied under this clause unless in addition to the existing air company the other party to the agreement is also made a party to the proceedings before the Tribunal. The Select Committee have, therefore, amended this clause making an express provision in this behalf.

Clause 25.—Apart from a minor drafting change in sub-clause (2), sub-clause (8) has been amended to provide that the amount of compensation (which should be subject to the approval of the Central Government) should be determined by the Corporation concerned and if the other party is not prepared to accept it, he may have the matter referred to the Tribunal.

Clause 26.—The amendment is to get over the difficulty, if any, which may arise if no sitting judge of a High Court is available for the Tribunal.

Clause 28.—The changes are of a drafting nature intended to clarify the position.

Clause 29.—This amendment seeks to ensure that at least one employee of either of the Corporations who has experience in labour matters is appointed to the Air Transport Council.

Clause 36 (new).—In the opinion of the Select Committee, the Corporations should be required to submit to the Central Government annually reports of their activities for the previous year and the reports should also contain a forecast of the activities of the Corporation for the ensuing year and copies of such reports should be placed before Parliament.

Clause 40 (old clause 39).—The power to constitute Advisory Committees should rest with the Central Government and this clause has, therefore, been suitably modified.

Clause 42 (new).—A provision for imposing a penalty on persons wrongfully withholding from the Corporations properties which have vested in

them is necessary and the Select Committee have, therefore, included such a provision in the Bill on the lines of section 282A of the Indian Companies Act, 1913.

Clause 43 (old clause 41).—The amendment is to ensure that all the rules made under this measure are laid before Parliament.

Schedule.—In addition to making a few minor amendments, the Select Committee have re-cast the note after paragraph II (c) to provide that stores (other than general stores) and spare parts get the same treatment as, for example, air screws and accessories if they can be made serviceable by incurring expenditure not exceeding a prescribed amount.

2. The Select Committee recommend that the Bill be passed as now amended.

NEW DELHI;
The 30th April, 1958.

THAKUR DAS BHARGAVA,
Chairman of the Select Committee.

MINUTES OF DISSENT

I

I am extremely sorry that I feel constrained and duty bound to write this note.

2. I find myself in a very unfortunate and helpless position at my inability to find a solution of a fairly difficult problem. It is a problem for which every member of the Select Committee has felt great concern and ransacked his brains without success. In this effort of finding a solution the Government representatives who are the Ministers and the representatives of every party in the House have done their best but they have not succeeded in finding a solution which would give satisfaction to persons directly interested.

3. In regard to the question of compensation, many members proposed many amendments but each one was found unsatisfactory. I must frankly say that the proposal which forms the subject matter in the Schedule is equally unsatisfactory as it fails to give satisfaction to all concerned.

4. The assessment of compensation is, in all cases, a complicated matter. Usually speaking, it is difficult for both the parties—the one who is to give and the other who is to receive, to agree to the quantum of compensation. In the present case the parties for whom a uniform formula is sought to be evolved are many in number and it is not strange to find that no formula of uniform applicability is acceptable to all of them. The matter becomes still more complicated when we remember that the different companies with the variety of their circumstances worked under conditions which were flagrantly desperate. These operating companies worked under the control of the Government in so far as the Import & Export of their goods were concerned, their fares and freights were concerned, their schedules of time and routes of operation were concerned. In such a situation as this, it could be clearly understood that the companies were not free agents so as to expand according to their will and enjoy freedom of action and progress but their activities were circumscribed in such a manner

as to retard their free growth and regulate their activities in almost a cribbed and cabined fashion. It so appears that if a company got a good route, it would certainly earn much more than a company which was not equally fortunate in getting equally profitable route.

5. It is clear that the Government could not possibly give the same conditions to every company and it cannot be said that the Government is deliberately and directly responsible for the economic disparities of the various companies. It cannot, however, be said that mis-management or inefficient management of the various companies, who find themselves in difficult economic conditions, is a direct cause of their mis-fortunes. Besides the Tata Airlines which was subsequently named as 'Air India' and the I.N.A. which came into existence long before the last war, all the other companies are the result of the post-war boom period. These companies started with high hopes and share-holders expected to reap rich harvest. Those companies which were in the field before had naturally certain advantages which those who came in the field subsequently could not enjoy. The Government contracts for carriage of mails which yielded good income fell to their lot to enjoy. As they were the first to enter into the arena, they naturally got the best routes for operation also. These companies as well as many others enjoyed high reputation of being managed by expert managing agents. In fact none of the companies which are being acquired seemed to suffer from mis-management or inefficient management. It can, under the circumstances, be broadly stated that most of the companies which are today smarting under loss and are complaining grossly inadequate compensation suffer mainly from the handicaps of insufficient and comparatively un-remunerative routes for which they can hardly be blamed. The Government of the day were anxious to develop this industry and they did their best in helping the industry in all possible ways. They provided aerodromes, trained the air personnel, encouraged the flying clubs, gave some facilities by way of reduction in prices of air fuels and allowed rebates yet on account of excessive expenditure in the preliminary stages of the industry, pioneering efforts and teething troubles, it was but natural that in the first few years of existence, the companies could neither give dividends nor show very satisfactory results. The time had now arrived when perhaps better results were expected, and un-manifested potentialities had begun to sprout into shape.

6. At this juncture nationalisation has come into the field with which some of the companies are not happy but the public in general welcomes it. As a result of the nationalisation all the existing operating lines will be acquired by the Corporations and the country will become the master of the air routes and the means of communications by air. Evidently, the nationalisation is quite necessary for public purposes and the Government of the day has every legal and moral right to acquire all the properties of the air companies existing in the country. According to the provisions of Section 31 of the Constitution, the compensation must be given to the companies and the law authorising the acquisition 'must either fix the amount of compensation or specify the principles on which and the manner in which the compensation is to be determined and given'. The difficult question of the determination of the amount of compensation or of the principle fixing the same has to be solved on a fair and equitable basis. While it is quite necessary that in awarding and fixing the amount of this compensation, one should look to the essential national interest and the fiscus of the country, it is also necessary to ensure that fair compensation is given to

those whose properties are being acquired. While it is necessary to safeguard the national economic interest, it is equally necessary to safeguard the interest of the individuals affected by the acquisition and they should not be forced to make more sacrifices than those suffered by the other members of the society. Compensation, in ordinary parlance, denotes the payment of an equivalent amount of money in terms of the rights acquired or losses incurred by the person whose rights are acquired. In fact there is no difficulty whatever nor is there any difference of opinion over the fact that those affected by the acquisition should receive fair compensation. In fact every member of the Select Committee is anxious that the right amount of compensation be paid to persons whose rights are being acquired. It is a matter of congratulation for the Government that its representatives were no less anxious to ensure that fair compensation was given to the shareholders of the companies. The Government could, by insistence upon a particular form of compensation, be enabled easily to pay even half the amount of compensation which it may have to pay if the principles enunciated by it in the Schedule are accepted by Parliament. The Government thus discarded the idea of paying compensation which looked to be grossly unfair or un-conscientious and I cannot help admiring the spirit motivating the mover of the Bill which instead of insisting on insufficient compensation seeks to pay the amount of compensation which appears fair to him on the basis of principles given in the Schedule. The Government was equally anxious that the under-dog *viz.* the ordinary shareholder should be able to benefit by the payment of compensation and so were, generally speaking, all the members of the Select Committee but with the best of goodwill and anxiety to benefit those who ought to be benefited, the Select Committee did not succeed in their efforts to implement their desires to the effect that the ordinary shareholder could get a fair amount of compensation. The difficulty arises from our inability to find a proper and equitable basis of compensation. The proposed principle *viz.* cost price of assets minus depreciation while benefiting some of the companies did not equally benefit the others, whereas the basis of the average market value of the shares (in the period, three years precedent to 30th June, 1952 *i.e.* the alleged date on which the idea of nationalisation was first announced) was favourable to some of the companies but did not equally favour others. It may, however, be pointed out that the market value of shares is not a totally sound basis for finding out the real market value. It is equally true that the basis of the market value of assets does not also afford a safe criterion for determining the real market value. The full proprietary rights in the Austinian sense of a concern consist of the entire bundle of rights tangible or intangible, express as well as potential and all these rights are very difficult of exact ascertainment and full appreciation. An undue emphasis on any one of the principles for ascertaining and determining the market value is sure to tip the balance and result in mal-adjustment with the companies whose conditions and assets are so irreconcivably different. It is possible that if the choice of the selection of the contending principles by which market value could be determined were left to the companies according to their interest, a more satisfactory result could be achieved. The principles of uniformity of treatment will not be found violated as the application of the very same principles was available to all and the choice of selection of any of the principles was equally open to all the companies.

7. It appears that out of about 36,000 shareholders of these air companies, 25,000 belong to Bharat Airways. Out of this 25,000, 17,000 persons are alleged to own 5 shares each of Rs. 10/-. If the basis of the

principles given in the schedule is accepted, it is said that none of these 25,000 shareholders will get a farthing by way of compensation. This is a state of things which has baffled the members of the Select Committee and they were keenly desirous of evolving any formula or principle by which at least half or substantial portion of the paid up capital could be secured by way of compensation to the shareholders. There are other companies, the shareholders of which, it is alleged, will not get more than 3 per cent. of the paid up capital if the principles given in the schedule are accepted, which, to say the least, is not satisfactory. It is the duty of every Government to bring about conditions in which industries in the country may prosper and the investors do not lose their capital. No Government, can, however, fully ensure such conditions. Anyhow, where mismanagement and inefficiency are not responsible for loss, it is not politic to allow such conditions to prevail. The incentive to invest specially by the poor and middle class people is extinguished. When it is the policy of the Government to encourage thrift and investment of funds in national industries, it is not wise to give a rude shock to the people by manipulation in such a manner that the poor and middle class investor loses all his capital by no fault of his own or the fault of those in whom he confided. At the same time it will neither be fair nor wise to give excessive compensation to those persons who are not entitled to it as it will create a bad precedent and is unjustifiable and amounts to frittering away of the national resources. Thus the solution resolves itself into a fair determination of what is the proper compensation under the circumstances.

8. It has been calculated that if the Government were to purchase the assets of these air companies in the open market in the world, the Government will have to spend not less than Rs. 10 crores. Thus the actual market value according to this calculation of the assets sought to be acquired is not less than Rs. 10 crores. The members of the Select Committee found that the embargo on exports of aircrafts equipment was not been laid in anticipation of nationalisation and it was in existence from a fair number of years and as a result of this embargo no purchasers of these articles were available in India. Some of the companies, however, claim that this embargo should not be allowed to diminish the price and they could get several times the price of equipments in the world markets as compared to the prices proposed to be paid by the Corporations. The Schedule envisages the principle of cost price or purchase price minus depreciation. This cost price, ordinarily speaking, should not be regarded as a good yard-stick for assessing the market value as market value does not become less by a purchaser striking a cheap bargain. It is claimed, however, on the other side that some of the Dakotas and other aircrafts but not the Skymasters were bought by the companies from the disposals and these goods were purchased at very cheap rates by them from the Government itself. There is certainly force in this argument but this argument has no application to the case of Skymasters and other aircrafts which were not bought from the disposals. The Honourable Minister who was pleased to say in his speech in the House that many of the companies were agreeable to the principles of compensation proposed by him in the Schedule and in cases where the companies agreed to these principles, there should be no objection to the acceptance of the principles and the determination of compensation on the basis of those principles so far as these companies are concerned.

9. The principles of compensation given in the Schedule also do not proceed on any well recognised basis. They are arbitrary, rough and ready,

divorced from income-tax, depreciation of values, but on the whole they afford a fair and equitable basis which the Government and these companies agree to accept. The basis of the average market value of shares affords satisfaction to some of the companies but it is said that all the shares are not quoted in the market and it is difficult to find out the market value of such shares as are not quoted. In reply it is said that the ordinary shares of these companies are quoted but the value of the preference cumulative shares is not quoted, but these shares are said to be of such a nature as partake of the character of loan and are akin to the liabilities of a concern. These shares possess a preference value specially at the time of distribution of assets and thus they are said to partake the characteristic of charged loans on the assets of a company. If the value of these shares is taken as 100 per cent. and the value of the ordinary shares is taken to be the market value, the ultimate market value of the shares can be determined and can form the basis of compensation.

10. I consider that judged from the fact that world market value of the assets of these air companies is not less than Rs. 10 crores and some of the equipments could fetch a very good market value in the world outside on account of the increase in price of such articles during the last few years, we should take all these considerations into account while considering the market value of the concerns for the purposes of compensation. I further consider that the embargo was not brought into existence in anticipation of the nationalisation scheme but was promulgated many years ago as a measure of national safety and these equipments cannot command a full value in the markets in India and some of the aircrafts were purchased at very cheap prices from the disposals by those companies, it will not be unfair if full amount of the world market prices is not regarded as the real market value of the assets. If it will be possible, by not unduly taxing the national exchequer, to pay the paid up value of ordinary shares as well as preference shares and the amount of such proposed payment does not amount to inordinate sum, I should have liked that such a sum was paid as compensation in view of the fact that the Government of the day had controlled the activities of these companies and their present position was, as stated before, not brought about by mismanagement or inefficient management, but in view of the fact, as is stated by the Hon'ble Minister that many of the companies are satisfied with the basis of assessment as given in the Schedule, I would prefer that by agreement the claims of these companies were liquidated on the basis of the principles given in the schedule. But in regard to such companies who are not satisfied by the principles given in the schedule and who prefer an assessment on the basis of market value of the shares quoted in the market and the value of the shares appraised according to their face value, it would be better if they were allowed to take compensation on this basis. I have been given to know that if the Government agrees to give the amount of compensation as 50 per cent. of the capital paid by the ordinary as well as the preference shares all such companies as regard the basis of evaluating the share value as a good one, would be satisfied and will accept the compensation on the basis of 50 per cent. paid up capital.

11. In the matter of compensation when the law enforces the national demand without taking into consideration the consent and the willing surrender by those whose properties and rights are acquired, the law, in case of immoveable properties, allows 15 per cent. of the market value as a solatium for forced acquisition. In the case of running industries also

where companies do not willingly agree to acquisition, there is an equity in their favour which could be satisfied by payment of some amount more than what actually the market value is. The potential value of industrial concerns cannot be evaluated by any known test and in my humble judgment if an agreement is brought about by payment of a small extra sum, it should not be grudged as long as the country does not pay more than what is regarded as a reasonable market value.

12. In the end I must express my solicitude for the interest of the ordinary shareholders of such companies as could allow everything to be swallowed by the preference shareholders leaving nothing for the ordinary shareholders and I must request the Government to find out a solution whereby the essential interest of thrift and small investment could be saved and the future incentive of the small investors be salvaged.

18. It has occurred to me that the object can be encompassed in two ways if the Law Department cannot come to the rescue of these ordinary shareholders. The Corporation may be enabled to buy the shares of these shareholders direct from them and reasonable price may be paid to them by negotiations and the balance of the shares and properties of the company be acquired from them in the ordinary way. The second alternative is to arm the Tribunal with powers to do justice to the ordinary shareholders in such a manner as they consider equitable, by the award of fair compensation out of the amounts due to the company or to deal with ordinary and preference shares separately and give them such compensation as they consider just.

NEW DELHI;

THAKUR DAS BHARGAVA.

The 30th April, 1953.

II

We regret we are unable to accept *in toto* the decisions of the Select Committee.

2. We feel that, according to the Five Year Plan which has already been generally accepted by Parliament, there should be only one Corporation with two Divisions, internal and external. The Corporation should consist of a majority of full-time members and its size should be compact.

3. In the first instance at least, there should be a selection Committee for the appointment of officers. There should also be a Committee of independent experts for proper valuation of machinery, parts etc.

4. Compensation according to the schedule is discriminatory and not equitable. The basis of compensation should be altered so as to reduce the total amount to be paid for compensation.

JOIPAL SINGH.

SYAMA PRASAD MOOKERJEE.

G. S. SINGH.

NEW DELHI;

The 30th April, 1953.

III

The bill as it has come out of the anvil of the Select Committee makes no material alteration. It was expected of the Government to come forward with a bill for complete nationalisation of the Aviation Industry in the model of the Railways—not on the business principle alone, but as a public utility service.

2. But the present bill does not hold out that prospect. The nationalisation, which we pressed for in the Select Committee is for the complete management by the Government departments and the annual budget votable by the Parliament. The advantage of such a nationalisation would be to give the people and their representatives an opportunity to go into its working, utility, profit and loss, and the future development of the Industry as a whole, this industry being in fact the second line of defence of our country. In such a case, there would be no opportunity for the private interests to jeopardise the development of the Industry from within for their personal advantages and gains. This idea was opposed by the Minister and the majority on the plea that by the institution of Corporations under the Government control, the purpose of Nationalisation is fully served and private interests cannot creep in any form. But we apprehend, having regard to the policy of the Government, the corporation will be so constituted as to be manned by the existing operators or their agents and theirs will be the prevailing voice. Our apprehension gains strength by the refusal of the Minister and the majority to bring non-scheduled lines under the management of the Government especially when they are profitable, thereby leaving an opportunity for these men in business to carry on their trade, with their brothers-in-trade sitting in the Corporations.

3. In a private industry, the labour is treated as mere wage earner, having no say in the management. But in a nationalised industry, the labour has an important role to play, if allowed proper scope. The workers being the mainstay for the success of the industry, they ought to have an effective share and responsibility in the management of the industry. Any nationalised institution without an effective voice of labour in the management will reduce itself to any ordinary private commercial institution.

In spite of our insistence, the majority refused to accept the spirit of our contention, leave alone including a representative of labour in the Corporations.

4. We concretely placed a proposal for having a five man corporation representing one from Communication Ministry, one expert in Civil Aviation to be recruited, one representing labour, and the rest representing the Ministries of Defence and Finance, thus making it a compact and effective organisation directly under the Government.

Some other colleagues also placed another proposal of having an officials majority in the Corporation, which was also refused.

These show that Government are going to hand over the Corporation to the non-official majority, who can only be ex-operators or persons connected with them.

5. The objective of a nationalised Institution is not to run only for profit on business lines as has been the objective in clause 9 of the bill, but its main objective must be to cater to the needs of the public, with maximum efficiency, less fare and freight, which if properly done will also be remunerative. An amendment to focus this aspect in clause 9 was however refused by majority.

6. This industry in spite of huge Government aid by way of petrol rebate and postal subsidy, was on its last legs. The quantum of compensation must reflect this state of the industry for which we suggested fair method and manner of assessing the compensation. The majority refused to accept this aspect by trotting forth the argument of 'justice and fairplay' to the operators, disregarding the consequences, which would have resulted to the Industry, had not the Government come forward to take it over.

This leads us to the only conclusion that the interests of the operators weighs high with the Government.

7. This so-called nationalisation is to help the industry in effecting rationalisation and large-scale retrenchment in the name of centralisation and economy. This also aims at reduction of wages in the name of standardisation. While discussing the propriety of setting up two corporations, the Hon. Minister laid emphasis in his speech on the floor of the House on the fact that International services would not be subjected to any dislocation arising out of the reorganisation of home-lines which might necessitate large scale transfers, reduction in staff etc. The refusal to accept our amendments to safeguard the minimum interest of labour in the 'nationalised industry' further strengthens our apprehensions.

8. In any scheme of nationalisation, the tenure of employee ought to be guaranteed and his emoluments and service conditions should not be adversely affected. The majority were not willing to accept these principles which are the essence of nationalisation. On the other hand, provision has been made for heavy compensation and wide discretion has been given to the Government which as stated by us above shall be exercised to place the Corporations in the hands of the ex-operators and their agents.

9. We cannot reconcile ourselves to the idea of two Corporations and as such we totally disagree with the majority view, which was not based on any justifiable reason. Even the argument of the Hon. Minister to experiment with two corporations and to reconsider the question of one corporation on the basis of experience gained seems to be based on uncertain premises. We are of opinion that one corporation will minimise the evil that will flow from two corporations. Setting up of one corporation besides, others, have distinctive advantages:

(i) The over-head charges will be reduced by at least 50 per cent. or if we accept the Hon. Minister's calculations, it will be to the tune of Rs. 6 lakhs.

(ii) The high earning of external operations can be utilised for the development and improvement of our national lines.

(iii) The technical staff by coming in touch with all types of aircrafts used for external and internal services will gain in efficiency and will be a national asset.

10. We are in complete disagreement with the provisions in the bill regarding the method of determining compensation and the mode of payment.

The quantum of compensation provided in the bill is unduly high and is intended to make good the loss incurred by the companies. That is why Air India's (Tatas) shares have jumped by 200 per cent. because it is they who are getting the best out of the deal. Aircraft and spares which were bought at very cheap prices from disposal stores and have already been written down to Re. 1/- by charging heavy depreciation rates, are now to be compensated at far lower depreciation rates which neither the rate of obsolescence of aircraft nor the actual written down value justifies. There is danger that spares which have been declared redundant and useless will again be paid for at the fantastic rates of 80 per cent. and 90 per cent. of the cost price. We have demanded that: EITHER

(i) buy up the shares at their market value as on the first day of July, 1952; OR

Compensation to be computed at the cost value minus depreciation and reserve funds already provided for by the companies.

(ii) For stores and equipment compensation only for the serviceable and usable stores and equipments with 100 per cent. utility hours should be paid for at 60 per cent. of the cost price and there should be proportionate reduction on the basis of their utility hours.

This would have been fair and would have kept the total compensation within Rs. 3 crores as provided in the 5 year Plan and also would have minimised possible manipulations by the companies. But as is our experience with all the Government plans the amount is going to be now far exceeded and will go to fill the pockets of the big business.

11. We had suggested an amendment to clause 25 by which an expert committee could be set up with representative of organised labour in it, who alone could evaluate the proper usability or otherwise of spares. But this too was turned down by the majority.

12. In our opinion the interest of $3\frac{1}{2}$ per cent. to be paid to the existing companies will be a heavy burden on the Corporation's revenue in view of the fact that the industry is already in a crisis. It is needless on our part to say that not only the interest, but the shares of the share-holders are not protected and we apprehend that the entire compensation amount is going to be misappropriated by a few who are at the helm of affairs of these Companies.

13. While going through the Bill clause by clause, we could see the red thread throughout of measures against the interests of labour. For instance, in clause 20, though a promise is given to consider the cases of employees discharged after 1st July, 1952, the Corporations have been

given arbitrary powers to dispense with and alter the service conditions of employees during the course of the reorganisation. After six to nine months of the appointed date, *i.e.*, when the reorganisation is complete, there is likely to be a large scale retrenchment which is implied in the statement of the Minister in the House.

14. In clause 39, the provision made for the labour relations committee without constituting it properly consisting of the elected representatives of the employees and without adequate powers to go into the labour disputes and differences cropping up in day-to-day functioning and by maintaining it only in an advisory capacity, we strongly feel that this is an attempt purposely made to by-pass organised labour. Therefore we suggested a very modest amendment on the basis of the provision made in the British Civil Aviation Act, 1946, but even this was turned down by the majority. At this stage, we demanded at least the deletion of sub-clause (2) of clause 39, but this was also rejected. From this our fear is confirmed that this sub-clause is going to be used against the growth of genuine trade union movement in the industry.

15. We wish to emphasise that even in this halfhearted measure towards nationalisation, the importance of labour should have been realised and at least labour made to feel that in such Government undertakings their interest and well-being would not be jeopardised. But the bill as it comes out of the select committee, belies this expectation. The refusal on the part of the majority to hear the representatives from the organised labour, in spite of their request only confirms our contention that the organised labour is kept out throughout in the process of this so-called nationalisation.

16. In conclusion, we are constrained to state that this one is neither nationalisation nor proper Government management, but is one brought forth more to save certain private interests than the larger interests of the nation. The failure of this 'nationalisation' will reflect on all future attempts at nationalisation and this will be brought forward as an argument by the Government against any such future measure.

17. For the aforesaid reasons, we regret, we cannot agree with the majority report and we hereby submit this note of dissent.

NEW DELHI;
The 30th April, 1953.

K. ANANDA NAMBIAR.
RENU CHAKRAVARTTY.
S. V. L. NARASIMHAM.

IV

We feel that there is no justification for two Corporations. Our Civil Aviation industry has suffered much in the past due to the existence of too many operators resulting in inefficiency, waste and extravagance. We must draw a lesson from this experience. We are of the opinion that the setting up of two Corporations would duplicate overhead charges. Moreover, splitting up of the external and the internal operations under two

Corporations would restrict the possibility to enhance the technical skill and efficiency of the personnel working for internal Corporation. The external services are more remunerative and a part of their profits can be made available to develop internal operations, if both are under one organisational set-up. In England there were three Corporations in 1946. But subsequent experience proved the desirability of reducing the number to two. Opinion is slowly gaining ground in U.K. for one Corporation. It must also be borne in mind that the volume of traffic which our air lines—both internal and external—have to handle at present and may have to handle in the foreseeable future, does not warrant the setting up of more than one Corporation. The Air Transport Enquiry Committee appointed by the Government of India recommended the merging of all companies in a single Corporation. The Planning Commission also favoured the idea of a single organisation in charge of internal as well as external operations. It said that “economic operation will be possible only if the existing companies merge into a single unit”. It further pointed out that “a single organisation in charge of internal as well as external operations can handle all the existing traffic with a smaller number of aircraft and also save in overheads and in other directions.”

2. The representative body of workers of all categories in this industry have unanimously expressed their opinion in favour of one Corporation and as the progress of this undertaking depends in no small measure on their enthusiastic co-operation and support the Government would stand to gain by respecting their viewpoint.

3. In these circumstances we feel that the setting up of two Corporations is unnecessary. A single Corporation with two wings for internal and external services, if need be, is more rational and quite adequate for the purpose.

4. We are of the opinion that non-scheduled air transport services other than flying clubs should also become a monopoly of the state. Though the bill does not preclude the Corporations from undertaking non-scheduled operations; it is necessary, for making nationalisation complete, to have monopoly of non-scheduled services as well.

5. Clause 4 of the bill provides that the Corporations shall consist of not less than five but not more than nine members appointed by the Central Government. We feel that the number should not be unduly large. We can follow the example of Railway Board which consists of only four members. We suggest that the number may be between 3 and 5 and they should be full-time members. It is also our view that one of the members should be a representative of the workers.

6. One of the major points on which we strongly differ from the majority report relates to the basis on which compensation to air companies should be determined. We are of the view that it would be in the interests of the national exchequer and also be just to the shareholders if the shares of the company are compulsorily acquired at their market value as on July, 1952. It was felt by the members of the Select Committee that the interest of the ordinary shareholders should be protected when compensation is paid. The only way to ensure this is by adopting the method we have suggested above. The view that compensating on the basis of the market value of the shares would be hard on the companies is to err on the wrong side of generosity. It is not a question of being hard or otherwise. It is primarily a question of being just to all concerned.

7. One point that has struck us in considering the provisions of the bill is the shyness of the Government to take the employees into their confidence and to give them an adequate share in the management of this national enterprise. Nationalisation should not mean a mere transfer of ownership to the State and a substitution of private capitalism by State capitalism. Unless workers are given their due share in the management of State undertakings, economic democracy cannot develop in this country; and in the absence of economic democracy, nationalisation may not serve the purpose for which it is intended.

NEW DELHI;
The 30th April, 1953.

SARANGDHAR DAS.
DAMODARA MENON.
M. S. GURUPADASWAMY.

V

The principles of determining the compensation payable to the concerned companies as embodied in the Bill are inequitable, cumbersome and unjust.

2. Nationalisation means and involves a just and equal treatment to all concerned. No attempt has been made in the Bill to safeguard the interest of the ordinary shareholders and to ensure their getting a legitimate quota of compensation. A point was raised whether a provision to that effect could be *intra vires*, and the legal opinion was obtained. On a careful consideration of the opinion I am inclined to think that a provision to that effect would not militate against the provisions of the Constitution. We can enact a law which is absolutely essential in the interests of justice, notwithstanding anything contained in any law for the time being in force and notwithstanding any contract to the contrary.

3. The system of determining the compensation is cumbersome. Surely in all cases and on all items agreement may not be possible. Then the Tribunal comes into the picture. Granting that the Tribunal functions effectively and efficiently we have to admit that there is bound to be some delay in deciding the many and varied references. The result will be that the aggrieved companies will be diverted of their undertakings and the payment is subject to a dispute, the procedure involves evidence and production of relevant records as, when and where they are required. It is but essential to think of a rough and ready payment than the one after such a prolonged agony. My suggestion is that lumpsum compensation amounting to one-half of the paid up capital be fixed and the same be enacted to be distributed equally among all shareholders.

This avoids many complications, and protects the ordinary shareholders whose interests should be paramount in our consideration. I commend this suggestion to the House agreeing with the majority view.

NEW DELHI;
The 30th April, 1953.

R. SESHAGIRI RAO.

VI

While appending this Minute of Dissent to the report of the Select Committee on the Air Corporation Bill, 1953, we sincerely hope that the suggestions made by us shall be appreciated and adopted by the House.

The Scheme of compensation proposed in the Bill is not at all satisfactory. Its application in some cases would result in unfairness and injustice. It has been explained to us all by the Minister concerned, that the Market Price of the shares has not been taken as the basis of compensation for the reason that such a course would result in payment of less compensation than what is due to the shareholders of that company but here we find that with the application of the proposed schedule and the method of compensation also, the compensation so paid, will in the case of a few companies, amount to no payment or to a payment of a very meagre amount than the price of the ordinary shares of that company prevailing in the market. In order therefore, to strengthen the very said idea of the Minister that the basis of compensation should not result in payment of less compensation to the shareholders than their share market value, prevailing during the course of two to three years, we should evolve some provision to safeguard such interests. We, therefore, suggest the House to add in clause 25, a proviso to the following effect:—

“Provided that in no case the compensation so awarded to a company shall be less than a sum, enough to enable the company to pay to all its shareholders at least to the extent of its average market share value prevailing during the last three years.”

P. L. R. KAUSHIK.

SUSHAMA SEN.

C. P. MATTHEN.

RADHA RAMAN.

NEW DELHI;

The 30th April, 1958.

VII

The schedule to the bill lays down a set of formulæ for valuation of components of aircraft and stores.

It is not possible to deduce any principle on which the formulæ are based.

The purpose of the bill is to acquire the undertakings of various legal “persons” for a public purpose; and not odd bits of moveable property including junk. We have the precedent of similar acquisition for public purposes when the Reserve Bank of India and the Road Transport undertakings in Bombay were acquired. It is not intelligible why either of the precedents were not followed especially when the Air Transport Enquiry Committee of 1950 presided over by Mr. Justice Rajadhaksha, recommended the second alternative though they did not rule out the first. The Governments of U.K. and Australia are said to have adopted the method recommended by Rajadhaksha Committee.

As a result of the working out of the schedule, it is anticipated that out of the approximate total number of 30,000 shareholders in all the companies which own the undertakings, only 5,000 are likely to get varying amounts as compensation for the value of their shares (on the assumption that the Companies will choose to distribute the entire compensation money equitably amongst the shareholders). 25,000 shareholders i.e., nearly 85 per cent. of the total number of shareholders in Air undertakings would get nothing not even a pie as compensation. Apart from total loss

which is being inflicted on this large body of middle class small investors and its resultant hardship on them at the present moment; it can be taken for granted that no prudent person will invest any of his savings in any undertakings to be promoted in future. What will happen to the expectation from the private sector in industrial development as envisaged in the Five Year Plan is apparent.

Whatever be the intentions of the framers of the schedule judging from anticipated results, it is difficult to escape from the conclusion, that a small fraction of shareholders are receiving a favourable treatment as against the very large bulk who are being left without anything. A simple and intelligible method would be to acquire the shares of the shareholders at an equitable price so that each shareholder would feel that he is being compensated fairly for his investment. It is not difficult to evaluate different categories of shares where there are any. There are ample precedents in our country as well as other countries. It is not necessary that full value need be paid for all shares. When any property is acquired by the State for 'public purpose' a citizen has learnt to be satisfied with a reasonable compensation, which is all that is guaranteed under the Constitution. Let not a large number feel that they are being discriminated against.

NEW DELHI;

N. KANUNGO.

The 30th April, 1953.

(AS AMENDED BY THE SELECT COMMITTEE)

(Words side-lined or underlined indicate the amendments suggested by the Committee, asterisks indicate omissions)

BILL NO. 22 A OF 1953

A Bill to provide for the establishment of Air Corporations, to facilitate the existing air companies and generally to make further and better provisions for the operation of air transport services.

BE it enacted by Parliament as follows:—

CHAPTER I

PRELIMINARY

1. Short title and commencement.—(1) This Act may be called the Air Corporations Act, 1953.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. Definitions.—In this Act, unless the context otherwise requires,—

(i) "aircraft" means any machine which can derive support in the atmosphere from reactions of the air and includes balloons, whether fixed or free, airships, kites, gliders and flying machines;

(ii) "air transport service" means a service for the transport by air of persons, mails or any other thing, animate or inanimate, for any kind of remuneration whatsoever, whether such service consists of a single flight or a series of flights;

(iii) "associate" in relation to either of the corporations means any subsidiary of the corporation or any person with whom the corporation has made an agreement in accordance with clause (h) or sub-section (2) of section 7;

(iv) "Corporations" means "Indian Airlines" and "Air-India International" established under section 8, and "Corporation" means either of the Corporations;

(v) the expression "existing air companies" means the Air India Ltd., the Air Services of India Ltd., the Airways (India) Ltd., the Bharat Airways Ltd., the Deccan Airways Ltd., the Himalayan Aviation Ltd., the Indian National Airways Ltd., the Kalinga Airlines and the Air India International Ltd., and "existing air company" means any of the existing air companies;

(vi) "prescribed" means prescribed by rules made under this Act;

(vii) "regulations" means regulations made by either of the corporations under section 44;

(viii) "Scheduled air transport service" means and air transport service undertaken between the same two or more places and operated according to a published time table or with flights so regular or frequent that they constitute a recognisably systematic series, each flight being open to use by members of the public;

(ix) "Tribunal" means the Tribunal constituted under section 25.

CHAPTER II

CONSTITUTION AND FUNCTIONS OF THE CORPORATIONS

3. Incorporation of the Corporations.—(1) With effect from such date as the Central Government may, by notification in the Official Gazette, appoint, there shall be established two Corporations to be known as "Indian Airlines" and "Air-India International".

(2) Each of the Corporations aforesaid shall be a body corporate having perpetual succession and a common seal with power, subject to the provisions of this Act to acquire and hold property, and may by its name sue and be sued.

4. Constitution of the Corporations.—(1) Each of the Corporations shall consist of not less than five but not more than nine members appointed by the Central Government and one of the members shall be appointed by the Central Government to be the Chairman of the Corporation:

Provided that—

(i) the same person may be appointed to be the Chairman of both the Corporations or Chairman of one and member of the other;

(b) the same persons may be appointed to be members of both the Corporations.

(2) Before appointing a person to be a member of either of the Corporations, the Central Government shall satisfy itself that that person will have no such financial or other interest as is likely to affect prejudicially the exercise or performance by him of his functions as a member of the Corporation and the Central Government shall also satisfy itself from time to time with respect to every member of the Corporation that he

has no such interest; and any person who is, or whom the Central Government proposes to appoint and who has consented to be a member of the Corporation shall, whenever required by the Central Government so to do, furnish to it such information as the Central Government considers necessary for the performance of its duties under this sub-section.

(3) A member of either of the Corporations who is in any way directly or indirectly interested in a contract made or proposed to be made by the Corporation, or in any contract made or proposed to be made by an associate of the Corporation which is brought up for consideration by the Corporation, shall, as soon as possible after the relevant circumstances have come to his knowledge disclose the nature of his interest at a meeting of the Corporation; and the disclosure shall be recorded in the minutes of the Corporation, and the member shall not take any part after the disclosure in any deliberation or decision of the Corporation with respect to that contract.

(4) During the temporary absence of the Chairman of either of the Corporations, the Central Government may appoint another person, whether a member of the Corporation or not, to act as the Chairman.

(5) Save as otherwise provided in this section, nothing contained in this Act shall be deemed to disqualify the General Manager of either of the Corporations from being appointed to be a member thereof.

5. Conditions of service of members.—(1) The Chairman and other members of each of the Corporations shall ordinarily be entitled to hold office for the period specified in the order of appointment, unless the appointment is terminated earlier by the Central Government:

Provided that any member may at any time by notice in writing addressed to the Central Government resign his office.

* * * *

(2) Subject to the previous approval of the Central Government, each of the Corporations shall pay to every member thereof in respect of his office as such, such remuneration by way of allowances, fees or otherwise as may be determined by the Corporation, and to the Chairman in respect of his office as such, such remuneration, whether in addition to the remuneration to which he may be entitled in respect of his office as a member or otherwise, as it may similarly determine.

6. Vacancy in Corporation not to invalidate proceedings.—No act or proceeding of either of the Corporations shall be deemed to be invalid by reason merely of any vacancy in, or any defect in the constitution of, the Corporation.

7. Functions of the Corporations.—(1) Subject to the rules, if any, made by the Central Government in this behalf, it shall be the function of each of the Corporations to provide safe, efficient, adequate, economical and properly co-ordinated air transport services, whether internal or international or both, and the Corporations shall so exercise their powers as to secure that the air transport services are developed to the best advantage and, in particular, so exercise those powers as to secure that the services are provided at reasonable charges.

(2) Without prejudice to the generality of the powers conferred by sub-section (1), each of the Corporations shall, in particular, have power—

(a) to operate any air transport service, or any flight by aircraft for a commercial or other purpose, and to carry out all forms of aerial work;

(b) to provide for the instruction and training in matters connected with aircraft or flight by aircraft of persons employed, or desirous of being employed, either by the Corporation or by any other person;

(c) with the previous approval of the Central Government, to promote any organization outside India for the purpose of engaging in any activity of a kind which the Corporation has power to carry on;

(d) to acquire, hold or dispose of any property, whether movable or immovable, or any air transport undertaking;

(e) to repair, overhaul, reconstruct, assemble or recondition aircraft, vehicles or other machines and parts, accessories and instruments thereof or therefor and also to manufacture such parts, accessories and instruments, whether the aircraft, vehicles or other machines are owned by the Corporation or by any other person;

(f) to enter into and perform all such contracts as are calculated to further the efficient performance of its duties and the exercise of its powers under this Act;

(g) to perform any functions as agent or contractor in relation to an air transport service operated by any other person;

(h) with the previous approval of the Central Government, to enter into agreements with any person engaged in air transportation with a view to enabling such person to provide air transport services on behalf of or in association with the Corporation;

(i) with the previous approval of the Central Government, to determine and levy fares and freight rates and other charges for or in respect of the carriage of passengers and goods on air transport services operated by it;

(j) to take such steps as are calculated to extend the air transport services provided by the Corporation, whether within or without India, including the development of feeder services and the improvement of the types of aircraft used in air transport services;

(k) to take such steps as are calculated to promote the interests of the Corporation or to improve the services the Corporation may provide, including provision of catering, rest-rooms, goods-sheds, warehouses and transport by land or water in connection with any air transport service or any other amenity or facility;

(l) to take all such steps as may be necessary or convenient for, or may be incidental to, the exercise of any power, or the discharge of any function or duty conferred or imposed on it by this Act.

(3) Nothing contained in this section shall be construed as---

(a) authorising the disregard by the Corporation of any law for the time being in force, or

(b) authorising any person to institute any proceeding in respect of a duty or liability to which either of the Corporations or its employees would not otherwise be subject.

8. Appointment of officers and other employees of the Corporations.—(1) For the purpose of enabling it efficiently to discharge its functions under this Act, each of the Corporations shall appoint a General Manager and, subject to such rules as may be prescribed in this behalf, may also appoint such number of other officers and employees as it may think necessary:

Provided that the appointment of the General Manager and such other categories of officers as may be specified after consultation with the Chairman in such rules shall be subject to the approval of the Central Government.

(2) Subject to the provisions of section 20, every person employed by each of the Corporations shall be subject to such conditions of service and shall be entitled to such remuneration and privileges as may be determined by regulations made by the Corporation by which he is employed.

(3) Neither the General Manager nor such other employee of either of the Corporations as may be specified in this behalf by the Central Government shall, during his service in the Corporation, be employed in any capacity whatsoever or directly or indirectly have any interest in any air transport undertaking other than an undertaking of either of the Corporations, or in any other undertaking which is interested in any contract with either of the Corporations.

9. Corporations to act on business principles.—In carrying out any of the duties vested in it by this Act, each of the Corporations shall act so far as may be on business principles.

CHAPTER III

FINANCE, ACCOUNTS AND AUDIT

10. Capital of the Corporations.—(1) All non-recurring expenditure incurred by the Central Government for, or in connection with, each of the Corporations up to the date of establishment of that Corporation and declared to be capital expenditure by that Government, shall be treated as capital provided by the Central Government to that Corporation.

(2) The Central Government may provide any further capital that may be required by either of the Corporations for the carrying on of the business of the Corporation or for any purpose connected therewith on such terms and conditions as the Central Government may determine.

(3) Each of the Corporations may, with the consent of the Central Government, or in accordance with the terms of any general authority given to it by the Central Government—

(a) borrow money for all or any of the purposes of the Corporation, and

(b) secure the payment of any money borrowed by it or any interest thereon by the issue of bonds, debentures, debenture-stock or any mortgage or charge or other security on the undertaking of the Corporation or any part of it or on any of its properties.

11. Vesting of properties in the Corporations.—All properties, assets and funds owned or required by the Central Government for the purpose of Indian Airlines or, as the case may be, Air India International before the establishment of those Corporations shall, on such establishment, vest in the Corporation concerned.

12. Funds of the Corporations.—(1) Each of the Corporations shall have its own funds and all receipts of the Corporation shall be carried thereto and all payments for the Corporation shall be made therefrom.

(2) Each of the Corporations may keep in current account with any scheduled bank as defined in section 2 of the Reserve Bank of India Act, 1934 (II of 1934) or in any other bank approved by the Central Government in this behalf a sum of money not exceeding such amount as may be prescribed, but any moneys in excess of the said sum shall be deposited in the Reserve Bank of India or with the agents of the Reserve Bank of India or in such manner as may be approved by the Central Government.

13. Powers of the Corporations in regard to expenditure.—Each of the Corporations shall have power, subject to the provisions of this Act, to spend such sums as it thinks fit on objects or for purposes authorised by this Act and such sum shall be treated as expenditure out of the funds of that Corporation.

14. Corporation to assume obligations of Central Government in respect of certain matters.—All obligations incurred, all contracts entered into and all matters and things engaged to be done by, with, or for the Central Government for any of the purposes of this Act before the establishment of either of the Corporations shall be deemed to have been incurred entered into or engaged to be done by, with or for Indian Airlines or, as the case may be, Air India International according as the obligations, contracts, matters and things relate to the purposes of the former Corporation or the latter.

15. Accounts and audit.—(1) The Corporations shall maintain proper accounts and other relevant records and prepare an annual statement of accounts, including the profit and loss account and the balance sheet in such form as may be prescribed by the Central Government in consultation with the Comptroller and Auditor General of India.

(2) The accounts of the Corporations shall be audited annually by the Comptroller and Auditor General of India and any expenditure incurred by him in connection with such audit shall be payable by the Corporations to the Comptroller and Auditor General of India.

(3) The Comptroller and Auditor General of India and any person appointed by him in connection with the audit of the accounts of the Corporations shall have the same rights and privileges and authority in connection with such audit as the Comptroller and Auditor General has in connection with the audit of Government accounts and in particular, shall have the right to demand the production of books, accounts, connected vouchers and other documents and papers and to inspect any of the offices of the Corporations.

(4) The accounts of the Corporations as certified by the Comptroller and Auditor General of India or any other person appointed by him in this

behalf together with the audit report thereon shall be forwarded annually to the Central Government and that Government shall cause the same to be laid before both Houses of Parliament.

CHAPTER IV

ACQUISITION OF UNDERTAKINGS OF EXISTING AIR COMPANIES

16. Undertakings of existing air companies to vest in the Corporations.—

On such date as the Central Government may, by notification in the Official Gazette, appoint (hereinafter referred to as "the appointed date"), there shall be transferred to and vest in—

(a) Indian Airlines, the undertakings of all the existing air companies (other than Air India International Ltd.), and

(b) Air India International, the undertaking of the Air India International Ltd.

17. General effect of vesting of undertakings in the Corporations.—

(1) The undertaking of each of the existing air companies which is transferred to and which vests in either of the Corporations under section 16 shall, subject to the provisions of **** section 22, be deemed to include all assets, rights, powers, authorities and privileges and all property, movable and immovable, including lands, works, workshops, aircraft, cash balances, reserve funds, investments and book debts and all other rights and interests arising out of such property as were immediately before the appointed date in the ownership, possession or power of the existing air company in relation to the undertaking, whether within or without India, and all books of account and documents relating thereto, and, subject to the provisions contained in section 22, shall also be deemed to include all borrowings, liabilities and obligations of whatever kind then subsisting of the existing company in relation to the undertaking.

(2) Any lands, works, aircraft, assets other property vesting in the Corporation under sub-section (1) shall by force of such vesting be freed and discharged from all trusts, obligations, mortgages, charges, liens and other encumbrances affecting it, and any attachment, injunction or any other order of a court restricting the use of such property in any manner shall be deemed to have been withdrawn.

(3) Subject to the other provisions contained in this Act, all contracts and working arrangements which are subsisting immediately before the appointed date and affecting any of the existing air companies shall, in so far as they relate to the undertaking of that company, cease to have effect or be enforceable against that company or any person who was surety or had guaranteed the performance thereof, and shall be of as full force and effect against or in favour of the Corporation in which the undertaking has vested by virtue of this Act and enforceable as fully and effectually as if, instead of the company, the Corporation had been named therein or had been a party thereto.

(4) Subject to the other provisions contained in this Act, any proceeding or cause of action pending or existing immediately before the appointed date by or against any of the existing air companies in relation to its undertaking may as from that date be continued and enforced by or against the Corporation in which it has vested by virtue of

this Act as it might have been enforced by or against that company if this Act had not been passed, and shall cease to be enforceable by or against that company, its surety or guarantor.

18. Reservation of scheduled air transport services to the Corporations.—(1) After the appointed date, it shall not be lawful for any person other than the Corporations or their associates to operate any scheduled air transport service from, to, in or across India:

Provided that nothing in this section shall restrict the right of any person,—

(a) for the purpose of any air transport undertaking of which the principal place of business is in any country outside India, to operate an air transport service in accordance with the terms of any agreement for the time being in force between the Government of India and the Government of that country; or

(b) to carry passengers for the sole purpose of instructing them in flying or on duties of aircrews; or

(c) to carry passengers or goods for the sole purpose of providing an air ambulance service or a rescue or relief service during any natural calamity; or

(d) to carry passengers or goods for the sole purpose of providing joy rides consisting of flights operated from and to the same aerodrome or place without any intermediate landing or for the purpose of aerial survey, fire fighting, crop-dusting, locust control or any other aerial work of a similar nature.

(2) Any person who operates a scheduled air transport service in contravention of the provisions of this section shall be liable in respect of each offence to a fine which may extend to one thousand rupees, or to imprisonment which may extend to three months, or to both.

Explanation.—The operation of each flight shall constitute a separate offence for the purposes of this section.

19. Licences to cease to be valid.—With effect from the appointed date, all licences granted under the Indian Aircraft Act, 1934 (XXII of 1934) or under the rules made thereunder for the operation of scheduled air transport services shall cease to be valid.

20. Provisions respecting officers and employees of existing air companies.—(1) Every officer or other employee of an existing air company (except a director, managing agent, manager or any other person entitled to manage the whole or a substantial part of the business and affairs of the company under a special agreement) employed by that company prior to the first day of July, 1952, and still in its employment immediately before the appointed date shall, in so far as such officer or other employee is employed in connection with the undertaking which has vested in either of the Corporations by virtue of this Act, become as from the appointed date an officer or other employee, as the case may be, of the Corporation in which the undertaking has vested and shall hold his office or service therein by the same tenure, at the same remuneration and upon the same terms and conditions and with the same rights and privileges as to pension and gratuity and other matters as he would have held the same under the existing air company if its undertaking had not vested in the Corporation

and shall continue to do so unless and until his employment in the Corporation is terminated or until his remuneration, terms or conditions are duly altered by the Corporation.

Provided that nothing contained in this section shall apply to any officer or other employee who has, by notice in writing given to the Corporation concerned prior to such date as may be fixed by the Central Government by notification in the Official Gazette, intimated his intention of not becoming an officer or other employee of the Corporation.

(2) Notwithstanding anything contained in sub-section (1), the Central Government may direct either of the Corporations in which the undertaking of any existing air company has vested to take into its employment any officer or other employee who was employed by the existing air company prior to the first day of July, 1952, and who has been discharged from service in that company on or after the said date for reasons which, in the opinion of the Central Government, appear to be inadequate for the purpose, and where the Central Government issues any such direction, the provisions of sub-section (1) shall apply to such officer or other employee as they apply to any officer or other employee referred to therein.

(3) As from the appointed date the trustees of the provident funds and pension funds or pension schemes of each of the existing air companies shall transfer to the Corporation concerned the balances lying to the credit of each of the employees whose services have been transferred to that Corporation by virtue of this Act and also all other balances of the funds or schemes as shall remain after satisfying all demands and liabilities, and thereupon the trustees shall be discharged of the trusts by virtue of this Act.

(4) Notwithstanding anything contained in this Act or in the Indian Companies Act, 1918 (VII of 1918) or in any other law for the time being in force or in any agreement entered into by an existing air company or in the articles of association of any such company, no director, managing agent, manager or any other person entitled to manage the whole or a substantial part of the business and affairs of the company shall be entitled to any compensation against any existing air company or against either of the Corporations for the loss of office or for the premature termination of any contract of management entered into by him with any existing air company and where any existing air company has, after the first day of July, 1952, and before the commencement of this Act, paid to any such person as is referred to in this sub-section any sum by way of compensation to which the person receiving such compensation would not have been entitled if this sub-section were in force at the time of such payment, the existing air company shall be entitled to claim refund of any sum so paid.

21. Duty to deliver up possession of property acquired and documents relating thereto.—(1) Where any property has vested in either of the Corporations under section 16, every person in whose possession or custody or under whose control the property may be, shall deliver up the property to the Corporation concerned forthwith.

(2) Any person who on the appointed date has in his possession or under his control any books, documents or papers relating to any undertaking which has vested in either of the Corporations under this Act and which belong to an existing air company or would have so belonged if its undertaking had not so vested shall be liable to account for the said books, documents and papers to the Corporation in which the undertaking has vested and shall deliver them up to the Corporation or to such person as the Corporation may direct:

Provided that the Corporation shall produce for inspection by such companies or their authorized representatives the books of account and documents as relate to the affairs of the company for any period prior to the appointed date.

(3) Without prejudice to the other provisions contained in this section, it shall be lawful for the Corporation and the Central Government to take all necessary steps for securing possession of all properties which have vested in the Corporation under section 16.

22. Duty of existing air companies to supply particulars.—(1) Where the undertaking of an existing air company vests in either of the Corporations under this Act, the existing air company shall, within thirty days from the appointed date or within such further time as the Corporation concerned may allow in any case, supply to the Corporation particulars of book debts and investments belonging to and all liabilities and obligations of the company subsisting immediately before the appointed date, and also of all agreements entered into by the existing air company and in force on the appointed date, including agreements, whether express or implied, relating to leave, pension, gratuity and other terms of service of any officer or other employee of the existing air company, under which by virtue of this Act the Corporations have or will or may have liabilities except such agreements as the Corporation may exclude either generally or in any particular case from the operation of this sub-section.

(2) If any existing air company fails to supply to the Corporation concerned particulars of such book debts, liabilities and agreements within the time allowed to it for the purpose under sub-section (1), nothing contained in this Act shall have effect so as to transfer any such book debts, liabilities and agreements to or to vest the same in the Corporation.

(3) Either Corporation may by notice in writing within a period of ninety days after submission of the particulars referred to in sub-section (1) intimate to the existing air company submitting the particulars that such of the book debts and investments as are specified in the notice are not included in the properties vesting in the Corporation whereupon the compensation provided by section 25 of this Act and the Schedule thereto shall be reduced by the amount of such excluded book debts and investments but the right of such existing air company to recover and retain such excluded book debts shall remain unaffected by this Act.

23. Right of Corporations to disclaim certain agreements.—(1) Where it appears to either of the Corporations that the making of any such agreements as is referred to in section 22 under which the Corporation has or will have or may have liabilities was not reasonably necessary for the purposes of the activities of the existing air company or has not been entered into in good faith, the Corporation may, within six months from

the appointed date, apply to the Tribunal for relief from such agreement, and the Tribunal, if satisfied after making such inquiry into the matter as it thinks fit that the agreement was not reasonably necessary for the purposes of the activities of the existing air company or has not been entered into in good faith, may make an order cancelling or varying the agreement on such terms as it may think fit to impose and the agreement shall thereupon have effect accordingly.

(2) All the parties to the agreement which is sought to be cancelled or varied under this section shall be made parties to the proceeding.

24. Transactions resulting in dissipation of assets.—(1) This section shall apply where any existing air company has, after the first day of July, 1952, and before the appointed date,—

(a) made any payment to any person without consideration or for an inadequate consideration;

(b) sold or disposed of any of its properties or rights without consideration or for an inadequate consideration;

(c) acquired any property or rights for an excessive consideration;

(d) entered into or varied any agreement so as to require an excessive consideration to be paid or given by the company;

(e) entered into any other transaction of such an onerous nature as to cause a loss to or impose a liability on the company exceeding any benefit accruing to the company; or

(f) sold or otherwise transferred any aircraft, equipment, machinery or other property of book value exceeding rupees ten thousand;

and the payment, sale, disposal, acquisition, agreement or variation thereof, or other transaction or transfer, was not reasonably necessary for the purposes of the company or was made with an unreasonable lack of prudence on the part of the company, regard being had in either case to the circumstances at the time.

(2) Either of the Corporations may, in the case of any such existing air company as is referred to in sub-section (1) the undertaking of which has vested in the Corporation under this Act, at any time within six months from the appointed date, apply for relief to the Tribunal in respect of any transaction to which in the opinion of the Corporation this section applies, and all parties to the transaction shall, unless the Tribunal otherwise directs, be made parties to the application.

(3) Where the Tribunal is satisfied that a transaction in respect of which an application is made is a transaction to which this section applies, then, unless the Tribunal is also satisfied that the transaction was a proper transaction made in the ordinary course of business regard being had to the circumstances at the time and was not in any way connected with any provision made by this Act or with any anticipation of the making of any such provision, the Tribunal shall make such order against any of the parties to the application as the Tribunal thinks just having regard to the extent to which those parties were respectively responsible for the transaction or benefited from it and all the circumstances of the case.

(4) Where an application is made to the Tribunal under this section in respect of any transaction and the application is determined in favour of the Corporation, the Tribunal shall have exclusive jurisdiction to determine any claim outstanding in respect of the transaction.

25. Compensation to be given for compulsory acquisition of undertaking.—(1) Where the undertaking of any of the existing air companies has vested in either of the Corporations under this Act, compensation shall be given by the Corporation to that company in the manner specified in section 27 and the amount of such compensation shall be determined in accordance with the principles specified in the Schedule to this Act.

(2) Notwithstanding that separate valuations are calculated under the principles specified in the Schedule in respect of the several matters referred to therein, the amount of compensation to be given shall be deemed to be a single compensation to be given for the undertaking as a whole.

(3) The amount of the compensation to be given in accordance with the aforesaid principles shall be determined by the Corporation and if the amount so determined is approved by the Central Government, it shall be offered to the existing air company in full satisfaction of the compensation payable under this Act, and if the amount so offered is not acceptable to the existing air company, it may within such time as may be prescribed for the purpose have the matter referred to a tribunal constituted for this purpose by the Central Government for decision.

26. Constitution of special tribunal to determine compensation.—(1) The Tribunal to be constituted under section 25 shall consist of three members appointed by the Central Government, one of whom shall be a person who is or has been a Judge of a High Court or has been a Judge of the Supreme Court.

(2) The Tribunal may for the purpose of deciding any matter under this Act choose one or more persons possessing special knowledge of any matter relating to the case under inquiry to assist it in determining any compensation which is to be given under this Act.

(3) The Tribunal shall have the powers of a civil court while trying a suit under the Code of Civil Procedure, 1908 (Act V of 1908) in respect of the following matters:—

(a) summoning and enforcing the attendance of any person and examining him on oath;

(b) requiring the discovery and production of documents;

(c) receiving evidence on affidavits;

(d) issuing commissions for the examination of witnesses or documents.

(4) The Tribunal shall by a majority of its number regulate its own procedure and decide any matter within its competence and may review its decision in the event of there being a mistake on the face of the record or correct any arithmetical or clerical error therein but subject thereto the decision of the Tribunal on any matter within its jurisdiction shall be final and shall not be called in question in any court

27. Mode of giving compensation.—(1) When the amount of compensation to be given under this Act to an existing air company has been determined under section 25, the Corporation shall give to the company one or more bonds of the face value of the amount of compensation so determined less such portion thereof as is payable in cash under this section.

(2) Out of the compensation to be given to each of the existing air companies under this Act, there shall be paid in cash—

(a) ten per cent. of the amount of compensation payable to each of such companies (which percentage shall be uniformly applicable to all existing air companies); or

(b) the amount borrowed by any such company from any bank and outstanding on the 31st day of December, 1952, or on the appointed date, whichever amount is less; or

(c) an amount equal to the cash of any such company, including cash in deposit with a bank, which has vested in the Corporation under this Act;

whichever of the amounts specified in clauses (a), (b) and (c) is the greatest.

(3) The bonds aforesaid shall be issued by the Corporation with the previous approval of the Central Government and shall be negotiable and shall be redeemed at their face value by the Corporation concerned on the demand of the holder within one hundred and eighty days after the expiry of five years from the date of their issue and the redemption of the bonds and payment of all interest thereon shall be guaranteed by the Central Government.

(4) If within the expiry of the said period of one hundred and eighty days, the holder of any bond fails to require payment of its face value from the Corporation concerned, the bond shall cease to be redeemable at the option of the holder:

Provided that in any case the Corporation may by notice require the holder of the bond to accept its face value in cash at any time whether before or after the expiry of the period of five years aforementioned.

(5) The holder of the bond shall be entitled to receive from the Corporation interest on the bond at three-and-a-half per cent. per annum at such intervals as may be prescribed, with effect from the appointed date and until the bond is duly redeemed.

(6) Bonds issued under this section shall, for the purpose of redemption and of computing interest be deemed to have been issued on the appointed date.

(7) Any bond issued under the provisions of this section shall be deemed to be a security in which a trustee may invest trust monies within the meaning of section 20 of the Indian Trusts Act, 1882 (II of 1882).

28. Winding up of existing company whose undertaking has been acquired.—(1) The Central Government may, by order in writing, authorise any existing air company the undertaking of which has vested in either of the Corporations, to be wound up voluntarily in accordance with the provisions of the Indian Companies Act, 1913 (VII of 1913) relating to voluntary winding up:

Provided that—

(a) the winding up of the company shall commence on the day on which the Central Government authorises the winding up without the passing by the company of any special or other resolution for winding up; and

(b) the directors of the existing company shall not be under an obligation to make any such statutory declaration as is required by section 207 of the Indian Companies Act, 1918 (VII of 1913); and

(c) the winding up of the company shall be continued by the directors of the existing company in office at the time the Central Government authorises its winding up and they shall be deemed to be joint liquidators for the purpose of the said winding up with power to act by a majority of their number.

(2) For the purposes of winding up the affairs of any existing air company or for any other purpose necessary for enabling it to give effect to the provisions of this Act, the Central Government may, notwithstanding anything contained in this Act, permit the existing air company to occupy, keep in its custody or utilise, as the case may be, for such period as it may allow any office, books, accounts and other documents and the services of any officers or other employees, which have been transferred to either of the Corporations under this Act, on such terms and conditions as may be agreed between the Corporation in which the undertaking has vested and the existing air company, or failing agreement, as may be determined by the Central Government.

CHAPTER V

AIR TRANSPORT COUNCIL

29. Constitution of Air Transport Council.—As soon as may be after the commencement of this Act, the Central Government may cause to be constituted an Air Transport Council consisting of a Chairman and such other number of members not exceeding eleven as the Central Government may appoint thereto:

Provided that amongst the members to be so appointed there shall at least be one person with experience in financial matters and one person who is an employee of either of the Corporations with experience in labour matters.

30. Functions of the Air Transport Council.—(1) It shall be the duty of the Air Transport Council to consider—

(a) at the request of either of the Corporations any matter of the kind referred to in section 37; and

(b) any matter of importance which may be referred to it by the Director General of Civil Aviation or the Director General of Posts and Telegraphs relating to matters of common interest, between either of the Corporations and the Director General of Civil Aviation, or as the case may be, the Director General of Posts and Telegraphs, including rates for the carriage of postal articles by air, and to make recommendations thereon to the Central Government.

(2) At the request of the Central Government, the Air Transport Council shall investigate any matter relating to the fares, freight rates or other charges levied by either Corporation in respect of any service or facility provided by the Corporation and of the adequacy or efficiency of such service or facility and shall make recommendations thereon to the Central Government.

(3) The Council shall, if so required by the Central Government, tender advice to that Government in regard to financial and economic analysis, accounting, costing and statistical techniques and financial reporting relating to air transport and, in particular, advise in regard to the matters specified in the proviso to sub-section (2) of section 88.

(4) The Central Government, after taking any recommendation made by the Air Transport Council under this section into consideration, may issue such directions in the matter as it thinks fit and such directions shall be binding on the Corporation concerned.

31. Staff of the Council.—The Council shall have a Secretary and such other employees as the Central Government may appoint, and the expenditure on the staff and other charges of the Council shall be borne by the Central Government.

32. Proceedings of the Council.—(1) The Council shall regulate its own procedure.

(2) No proceeding of the Council shall be deemed to be invalid by reason merely of any vacancy in, or any defect in the constitution of the Council.

CHAPTER VI

CONTROL OF CENTRAL GOVERNMENT

33. Power of Central Government to give directions.—(1) The Central Government may give to either of the Corporations directions as to the exercise and performance by the Corporation of its functions, and the Corporation shall be bound to give effect to any such directions.

(2) The Central Government may, if it is of opinion that it is expedient in the national interest so to do, after consultation with the Corporation concerned, direct either of the Corporations—

(a) to undertake any air transport service or other activity which the Corporation has power to undertake;

(b) to discontinue or make any change in any scheduled air transport service or other activity which it is operating or carrying on;

(c) not to undertake any activity which it proposes to do;

Provided that, if, at the direction of the Central Government, the Corporation establishes, alters or continues to maintain an air transport service or other activity and satisfies the Central Government that during the relevant financial year the Corporation has suffered an over-all loss in respect of the operation of all its air transport services and of all its other activities and also that the service or activity so established, altered or continued to be maintained in compliance with the directions of the Central Government as aforesaid has been operated at a loss in any financial year, then the Central Government shall reimburse the Corporation to the extent of the loss attributable to the operation of that particular service or activity.

34. Prior approval of Central Government necessary in certain cases.—neither Corporation shall, without the previous approval of the Central Government—

(a) undertake any capital expenditure for the purchase or acquisition of any immovable property or aircraft or any other thing at a cost exceeding rupees fifteen lakhs;

(b) enter into a lease of any immovable property for a period exceeding five years; or

(c) in any manner dispose of any property, right or privilege having an original or book value exceeding rupees ten lakhs.

35. Submission of programme of work for each year.—(1) Each of the Corporations shall prepare and submit to the Central Government, not less than three months before the commencement of the financial year of the Corporation a statement showing the programme of operation and development of air transport services to be operated by the Corporation and its associates during the forthcoming financial year and its other activities as well as its financial estimates in respect thereof, including any proposed investment of capital and increase in the strength of its total staff

(2) If, during any financial year, either of the Corporations engages or proposes to engage in any air transport service or ancillary activity in addition to those specified in the programme previously submitted under sub-section (1) and a substantial alteration of the financial estimates is likely to be involved thereby, the Corporation shall submit to the Central Government for approval a supplementary programme of such service or activity and a supplementary estimate of the expenditure and revenue to be incurred and received by the Corporation in respect thereof during the remainder of that period:

Provided that, to meet any unexpected traffic demand or other special situation either of the Corporations may undertake any additional service or other ancillary activity not specified in the programme submitted under sub-section (1) or sub-section (2) and subsequently submit a report on the matter to the Central Government in the prescribed manner.

36. Submission of Annual Reports to Parliament.—(1) Each of the Corporations shall, as soon as may be after the end of each financial year, prepare and submit to the Central Government in such form as may be prescribed a report giving an account of its activities during the previous financial year, and the report shall also give an account of the activities, if any, which are likely to be undertaken by the Corporation during the next financial year.

(2) The Central Government shall cause every such report to be laid before both Houses of Parliament as soon as may be after it is submitted.

CHAPTER VII

MISCELLANEOUS

37. Corporations to act in mutual consultation.—It shall be the duty of each of the Corporations to enter into consultations with the other in matters of common interest to the two Corporations including, in particular, the operation of scheduled air transport services, the routes on which such services should be operated by each of the Corporations, the frequency of such

services, the passenger fares and freight rates to be charged, the measures of economy to be adopted, the provision of any services in regard to overhaul and maintenance of aircraft or any other matter falling within the scope of the functions of either of the Corporations, and, generally, in regard to ensuring the fullest co-operation and co-ordination in respect of all such matters.

38. Transfer of scheduled air transport services or assets from one Corporation to the other.—The Central Government may, for the purpose of improving the air transport services provided by either of the Corporations or for effecting better co-ordination in respect of such services, direct that with effect from such date as may be specified in the direction and subject to such conditions as may be similarly specified,—

(a) any scheduled air transport service operated by one Corporation shall no longer be operated by that Corporation but shall be operated by the other Corporation, and

(b) any property belonging to one Corporation shall be transferred to the other Corporation.

39. Corporations may delegate their powers.—(1) Each of the Corporations may appoint a Committee or Committees consisting of some or any of its members with or without the addition of any officer or employee of the Corporation and delegate any of the functions and powers of the Corporation to such Committee or Committees and may limit the exercise of such delegated authority to any specified area.

(2) Either of the Corporations may, in relation to any particular matter or class of matters or to any particular area, by general or special order, direct that any of its officers or other employees may also exercise all or any of its powers under this Act (except the powers given to it by this section) to the extent to which the Corporation deems it necessary for the efficient running of its day to day administration.

40. Advisory and Labour Relations Committees.—(1) The Central Government, in consultation with the Corporation concerned, may appoint an Advisory Committee consisting of such number of persons as it may think fit for the purpose of advising the Corporation in respect of such matters as may be referred to it by the Corporation or as may be prescribed.

(2) Each of the Corporations shall constitute in the prescribed manner a Labour Relations Committee consisting of representatives of the Corporation and of its employees, so however that the number of representatives of the employees on the Committee shall not be less than the number of representatives of the Corporation, and it shall be the duty of the Labour Relations Committee to advise the Corporation on matters which relate to the welfare of the employees or which are likely to promote and secure amity and good relations between the two.

41. Meetings of the Corporation.—(1) Meetings of the Corporation shall be held at such times and places and, subject to sub-sections (2) and (3), the proceedings of the Corporation shall be conducted in such manner as may be provided by the regulations.

(2) The Chairman or in his absence any person chosen by the members present from amongst themselves shall preside at the meeting.

(3) At a meeting of the Corporation all questions shall be decided by a majority of votes of the members present, and for this purpose, each member shall have one vote and in the case of equality of votes the Chairman or, in his absence, the person presiding at the meeting shall have a second or casting vote.

42. Penalty for wrongful withholding of property.—If a director, managing agent, manager or other officer or employee of an existing air company who wilfully withholds or fails to deliver to the Corporation as required by sub-section (2) of section 21 any books, documents or papers which may be in his possession or who wrongfully obtains possession of any property of any such company which has vested in either of the Corporations under this Act or having any such property in his possession wrongfully withholds it from the Corporation or wilfully applies it to purposes other than those expressed in, or authorised by, this Act shall, on the complaint of the Corporation concerned, be punishable with fine which may extend to one thousand rupees and may be ordered by the Court trying the offence to deliver up or refund within a time to be fixed by the Court any such property improperly obtained or wrongfully withheld or wilfully misapplied or in default to suffer imprisonment which may extend to one year.

43. Power to make rules—(1) The Central Government may, by notification in the Official Gazette, make rules to give effect to the provisions of this Act

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the terms and conditions of service of the General Managers of the two Corporations; and such other categories of officers as may be specified from time to time under sub-section (1) of section 8.

(b) the form in which the budget of the two Corporations shall be prepared and submitted to the Central Government; and the form and the manner in which the accounts of the two Corporations shall be maintained and in which any returns or statistics shall be furnished or submitted;

(c) the reports which should be submitted by the Corporations and the intervals within which they should be so submitted;

(d) the maintenance of books of account;

(e) the establishment and maintenance of a fund by each of the Corporations for meeting any liability arising out of any act or omission in respect of which the Corporation may incur any liability to any third party;

(f) the provision of depreciation, reserve and other funds;

(g) the prohibition of persons who are directly or indirectly interested in any subsisting contract with either of the Corporations from becoming or being employees of the Corporation;

(h) the powers which may be exercised by either of the Corporations to facilitate the acquisition of any undertaking;

(i) the issue of bonds by either of the Corporations to meet any compensation payable by it under this Act;

(j) the training of the employees of either of the Corporations or other persons and the fees which may in its discretion be charged therefor;

(k) the term of office and other conditions of service of members of the Air Transport Council constituted under section 29;

(l) the prohibition of any interference with any air transport service or with any property of the Corporation or of any interference with or obstruction of any officer or employee of the Corporation in the performance of his duty;

(m) the punishment which shall not exceed imprisonment for three months or fine of rupees one thousand but which may consist of both such imprisonment and fine, in respect of any contravention of the provisions of any rules made under this section.

(3) All rules made under this section shall be laid before both Houses of Parliament as soon as may be after they are made

44. Power of Corporations to make regulations.—(1) Each of the Corporations may, with the previous approval of the Central Government, by notification in the Official Gazette, make regulations not inconsistent with this Act or the rules made thereunder for the administration of the affairs of the Corporation and for carrying out its functions

(2) In particular and without prejudice to the generality of the foregoing power, any such regulations may provide for all or any of the following matters, namely:—

(a) the time and place of the meetings of the Corporation and the procedure to be followed for the transaction of business at such meetings;

(b) the terms and conditions of service of officers and other employees of the Corporation other than the General Manager and officers of any other categories referred to in section 48;

(c) the issue of passes by the Corporation to its officers and other employees either free of cost or at concessional rates for travel on its air services and the conditions relating thereto;

(d) the authentication of orders and decisions of the Corporation and the instruments executed by it;

(e) the grant of refund in respect of any unused tickets and the issue of concessional passes;

(f) the period after the expiry of which unclaimed goods may be disposed of and the manner of their disposal;

(g) the conditions governing the carriage of persons or goods on its services.

THE SCHEDULE

(See section 25)

PRINCIPLES FOR DETERMINING COMPENSATION UNDER THIS ACT.

Paragraph I.—The compensation which shall be given by Indian Airlines or Air India International, as the case may be, to any existing air company in respect of the vesting, in accordance with the provisions of this Act, of the undertaking of such company in that Corporation shall be the sum of the amounts computed in accordance with the provisions of paragraph II, *less* the sum of the amounts computed in accordance with the provisions of paragraph III.

Paragraph II.—(a) The aggregate written down value of all airframes of aircraft in respect of which there are certificates of airworthiness in force or which can be rendered fit for certificates of airworthiness if the Corporation concerned were to incur expenditure within the normal rates for rendering the airframes airworthy, *plus*—

A sum of Rs. 12,000/- in respect of each airframe of a Dakota aircraft and a sum of Rs. 24,000/- in respect of each airframe of a Viking aircraft in any case where the existing air company had obtained a certificate of airworthiness in respect of it within ninety days immediately preceding the appointed date or if a certificate of airworthiness had not actually been obtained within that period but the existing air company had incurred expenditure within that period for the purpose of rendering that airframe airworthy, the value of the spare parts used for the purpose subject to a maximum of Rs. 12,000/- in the case of each airframe of a Dakota aircraft and Rs. 24,000/- in the case of each airframe of a Viking aircraft.

Note.—In this Schedule, the expression “airframe” includes also the equipment of the aircraft, whether fixed or removable.

(b) the aggregate written down value of all such power plants, aero-engines, air screws, spare aero-engines, and spare air screws (all of which are in this Schedule collectively referred to as power plants) as are suitable for use in the airframes mentioned in sub-clause (a) and as are of an approved standard or can be rendered fit to be of an approved standard if the Corporation concerned were to incur expenditure within the normal rates for such purposes, *plus* the following, namely:—

(i) a sum of Rs. 6,000/- in respect of each engine of a Dakota aircraft and a sum of Rs. 12,000/- in respect of each engine of a Viking aircraft in any case where the existing air company had made it an approved engine within a period of ninety days immediately preceding the appointed date or if the engine had not been made completely fit to be an approved engine within that period but the existing air company had incurred expenditure within the said period for the purpose of making that engine an approved engine, then, the value of the spare parts used for that purpose subject to a maximum of Rs. 6,000/- in the case of each engine of a Dakota aircraft and Rs. 12,000/- in the case of each engine of a Viking aircraft; and

(ii) a sum of Rs. 2,000/- in respect of the air screws and accessories of the power plant of a Dakota aircraft and a sum of Rs. 4,000/- in respect of the air screws and accessories of the power plant of a Viking aircraft in any case where the air screws and accessories had been rendered completely fit for the approved standard within a period of ninety days immediately preceding the appointed date or if the same had not been rendered completely fit for that standard within that period but the existing air company had incurred expenditure within that period for the purpose of rendering the same fit for the approved standard, then, the value of the spare parts used for that purpose subject to a maximum of Rs. 2,000/- in the case of air screws and accessories of a Dakota aircraft and Rs. 4,000/- in the case of air screws and accessories of a Viking aircraft.

Note.—In this Schedule, the expression “approved standard” means such condition of efficiency of the power plant as satisfies the requirements laid down in Section F of Schedule III to the Indian Aircraft Rules, 1937.

(c) the cost of purchase of all * serviceable general stores and all such other serviceable stores and spare parts (all of which are in this Schedule collectively referred to as stores and spare parts) belonging to the existing air company as are suitable for use in respect of the aircraft or power plants referred to in sub-clauses (a) and (b), *reduced* in each case by 20 per cent. of such cost of purchase:

Provided that the reduction shall be 10 *per cent.* in the case of stores and spare parts pertaining to Constellation and Skymaster aircraft.

Note.—In this Schedule—

(a) stores shall be deemed to be serviceable if they are such as to satisfy the requirements laid down in Section F of Schedule III to the Indian Aircraft Rules, 1937;

(b) without prejudice to the clause immediately preceding, stores (other than general stores) and spare parts shall also be deemed to be serviceable if by incurring expenditure of an amount not exceeding half the cost of purchase of such stores and spare parts, they can be rendered suitable for use in respect of the aircraft or power plants.

(d) the aggregate actual cost to the existing air company of all lands other than lease-holds;

(e) the total amount of the premiums paid by the company in respect of all lease-holds *reduced* in the case of each such premium by an amount which bears to such premium the same proportion as the expired term on the appointed date of the lease in respect of which such premium shall have been paid bears to the total term of the lease;

(f) the scrap value of all such aircraft, power plants, propellers and other accessories, spare parts and stores, not falling within any of the preceding sub-clauses, and all properties as have become obsolete on the appointed date, the scrap value for the purposes of this Act being one per cent. of the book value of the relevant item of property;

(g) the price paid by the existing air company for any trustee security held by it;

(h) the value of any shares held by any existing air company in any other existing air company, the value being calculated on the basis of the valuation of the air transport undertaking of that other company in accordance with the provisions of this Schedule;

(i) the market value on the appointed date or the purchase price whichever is less, of any other investments held by any existing air company in any concern other than another existing air company which, subject to the provisions of section 22, have vested in the Corporation;

(j) the amount of cash held by any existing air company on the appointed date whether in deposit with a bank or otherwise;

(k) the amount of debts other than bad debts due to any existing air company, to the extent to which they are reasonably considered to be recoverable, less the amount of the debts, if any, excluded from the transfer to the Corporation concerned under the provisions of section 22;

(l) the aggregate cost of all licence fees paid by the company under clause (c) of sub-rule (1) of Rule 154 of the Indian Aircraft Rules, 1937, in respect of the licences granted to it for the operation of any scheduled air transport services and held by it on the appointed date and which but for the provisions of section 19 would continue to remain valid *plus* a sum of Rs 100/- for each such licence: provided that the fees paid for each such licence shall be reduced by an amount which bears to such fees the same proportion as the period of the licence which shall have expired on the appointed date bears to the total period of the licence;

(m) the aggregate written down value of all tangible assets other than those falling within the preceding clauses;

(n) an aggregate amount not exceeding ten thousand rupees as may be agreed upon between the Corporation and the existing air company concerned or, failing agreement, which may be assessed by the Tribunal, in respect of all such assets, intangible or otherwise, as do not fall within any of the preceding sub-clauses and in respect of the loss of any future profits which the existing air company might have earned but for the passing of this Act:

Provided that in assessing any amount under this clause regard shall be had to the following circumstances, namely:—

(i) the profits, if any, earned by it annually during the six years immediately preceding the appointed date on which income-tax has been paid,

(ii) the subsidies, if any, given to that company by the Central Government during such period, and

(iii) the probability or otherwise of the company earning future profits if it were allowed to continue its scheduled air transport services for the remaining period of the licence held by it after having due regard to the fact that the licences held by it did not confer any monopoly upon it in respect of the routes concerned and the fact that no subsidy would have been payable by the Central Government after the 31st day of December, 1952.

Explanation A.—For the purposes of this Schedule, the written down value in respect of each class of assets means the actual cost to the existing air company of such assets respectively, less the total depreciation calculated at the rates and in the manner following, namely:—

(i) in respect of each airframe, depreciation shall be calculated at 15 per cent. per annum for Constellation and Skymaster aircraft and 18 per cent. per annum for other aircraft from the date on which the aircraft concerned was first used in revenue operations by the company till the 31st day of December, 1952, the rates being applied as follows:—

for the first year, on the actual cost of acquisition;

for the second year, on an amount obtained by reducing from the actual cost of acquisition the amount of depreciation calculated as aforesaid for the first year;

for the third year, on an amount obtained by reducing from the actual cost of acquisition the aggregate amount of depreciation calculated as aforesaid for the preceding two years;

and so on;

(ii) in respect of power plants, the depreciation shall be calculated at 20 per cent. per annum for Constellation and Skymaster aircraft and at 24 per cent. per annum for other aircraft from the date on which the power plant concerned was first used in revenue operations by the Company till the 31st day of December, 1952, the rates being applied as follows:—

for the first year, on the actual cost of acquisition;

for the second year, on an amount obtained by reducing from the actual cost of acquisition the amount of depreciation calculated as aforesaid for the first year;

for the third year, on an amount obtained by reducing from the actual cost of acquisition the aggregate amount of depreciation calculated as aforesaid for the preceding two years;

and so on;

(iii) in respect of all tangible assets falling within clause (m) of Paragraph II, depreciation shall be calculated at the normal annual rates for which provision is made in the Indian Income-tax Act, 1922 (XI of 1922) and in the manner provided therein, but excluding initial or other special depreciation, from the date such assets were acquired or created by the existing air company until the 31st day of December, 1952:

Provided that in respect of any such asset for which no provision has been made in the Indian Income-tax Act, 1922, the rate of depreciation shall be 10 per cent. per annum:

Provided further that in respect of any such asset situate on leasehold land other than land rented * * * from Government, the depreciation shall be either—

(a) as provided in the preceding provisions of this clause, or

(b) equivalent to an amount which bears the same ratio to the total cost of acquisition or creation of the asset (situate on leasehold land) as the expired portion of the lease on the appointed date bears to the total period of the lease currently running, whichever is greater,

Explanation B.—For the purposes of this Schedule, the actual cost shall include, in the case of airframes, in addition to the cost of purchase or acquisition,—

(i) the actual expenditure, if any, incurred by the existing air company for reconversion or reconstruction of the airframe in order to render it fit for civil air transport before it was first used in revenue operations by the company, *plus*

(ii) the actual expenditure incurred in making the airframe air-worthy before its first use in revenue operations.

Explanation C.—In the case of power plants, the actual cost shall include, in addition to the cost of purchase or acquisition, the cost incurred by the company for conversion or reconditioning, repairing or overhauling the power plant, in order to render it fit for the purposes of a certificate under paragraph 4 of Section E of Schedule III to the Indian Aircraft Rules, 1937, before the date of its first use in revenue operations.

Paragraph III.—Subject to the provisions of sections 22 and 23, all such liabilities as have been declared by the existing air company under the provisions of section 22:

Provided that if any liability so declared has been under-stated, the Corporation may recover the additional amount from the company.

M. N. KAUL,
Secretary.